THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO. 7993 OF 2006

DATED: 20-04-2006

BETWEEN:

Nalam Chakarapani Son of Kasi Viswanadham

and another

… Petitioners

And

The Municipal Corporation of Kakinada

represented by its Commissioner,

Kakinada and another

…Respondents

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO. 7993 OF 2006

ORDER:

This writ petition is filed to declare the action of the respondents corporation in proposing to demolish the buildings bearing No.21-9-2, 21-9-2/1, 21-9-2/2, 21-9-2/3 Rajaramohan Roy Road Kakinada of the petitioners without any notification, without payment of any compensation and without initiating any action under provisions of Sec.146 and 147 of the Hyderabad Municipal Corporation Act, 1955 or under the provisions of the Land Acquisition Act as illegal, arbitrary and violative of principles of natural justice.

Heard the learned counsel for the petitioners and the learned Government Pleader for the respondents and perused the material available on record.

It is stated that originally the father of the petitioners purchased the property and after his demise, the property devolved on the petitioners and they are in peaceful possession and enjoyment of the same without any interruption from anybody.

It is stated that while the matter stood thus, at the instance of the first respondent, second respondent has got the markings made on the building of the petitioners and other buildings in that locality for the purpose of demolition of the building under the road widening process. On the main road, the officials have earmarked 15 to 17 feet on either side, and on other roads about 10 feet was earmarked for demolition.

The main grievance of the petitioners is that the respondent corporation has not issued any notice before deciding to demolish the said building and they are trying to demolish the building for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporation Act (for short 'the Act') or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating Land Acquisition proceedings or by following due procedure prescribed under law.

Having regard to the facts and circumstances of the case, the respondents' corporation is directed not to demolish the structures or take away any portion of the property of the petitioners without following due process of law either under Sections 146 or 147 of the Act by private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

With the above direction, the writ petition is disposed of at the stage of admission. No order as to costs.

V. ESWARAIAH, J.

Dated: 20-04-2006

rns